

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

September 12, 2008

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: AMENDMENT NO. 1 OF TIMBER LAND LICENSE NO. 2007-H-01
 HELD BY HAWAII ISLAND HARDWOODS, LLC

BACKGROUND:

At its June 22, 2007 meeting under item C-2, the Board approved issuance of a Timber Land License to Hawaii Island Hardwoods, LLC (HIH) for timber resources within the Waiakea Timber Management Area (WTMA) on Hawaii island, in support of HIH establishing a state-of-the-art, medium sized sawmill facility (Exhibit A). With the assistance of the Department of the Attorney General, the Department subsequently finalized and executed Timber Land License No. 2007-H-01 ("License"), with an effective date of September 10, 2007 (Exhibit B). In a letter dated August 5, 2008, HIH sent correspondence to the Division of Forestry and Wildlife providing information regarding their project progress to date, and requesting amendments to the License (Exhibit C).

License terms included details for four (4) phases of development, a condition that harvesting within the licensed WTMA timber stands be initiated within 28 calendar days of License execution, specifications for mill size/capacity and others. To date Staff are satisfied with both the progress-to-date and compliance with License terms by HIH. License Phase I conditions were met by HIH, and timber harvesting was indeed initiated in a timely manner.

DISCUSSION:

HIH requests two principal amendments to the License. The first regards License Section 3, Table 2 which reads:

Table 2. Licensee sawmill development schedule.

<i>Item</i>	<i>Phase</i>	<i>Time Period</i>
<i>Traveling carriage head saw</i>	<i>II</i>	<i>6-12 months</i>
<i>Band or circle head saw</i>	<i>II</i>	<i>6-12 months</i>
<i>Dry kiln capacity to accommodate 1,000,000 BF/yr</i>	<i>II</i>	<i>6-12 months</i>
<i>Sorting line</i>	<i>III</i>	<i>9-18 months</i>
<i>Stacking machine</i>	<i>III</i>	<i>9-18 months</i>
<i>Planer</i>	<i>III</i>	<i>9-18 months</i>
<i>Two-saw, dual laser board edger</i>	<i>IV</i>	<i>12-48 months</i>
<i>Dry kiln capacity to accommodate 5,000,000 BF/yr</i>	<i>IV</i>	<i>12-48 months</i>

HIH has requested Time Period extensions for Phases II and III, to 20 months and 21 months, respectively.

Staff generally supports this request as HIH has demonstrated adequate progress in Phase I, shown good faith in its efforts to establish the sawmill and lumber kiln drying facility, and has appeared to experience legitimate delays in business development such as securing a mill site. However, given the challenging nature of timber industry business development, current economic conditions and the modest time extensions requested by HIH, Staff would suggest extensions of both Phases II and III to 24 months in order to provide HIH with slightly more flexibility and decrease the possibility that further License time period extension requests would be needed from the Board.

The second amendment requested by HIH regards License Section 10.17 which currently reads:

10.17 Sawmill – *At a minimum, a sawmill and lumber kiln-drying facility capable of processing at least 1,000,000 board feet of lumber annually within sixteen (16) months, and subsequently 5,000,000 board feet of lumber annually within four (4) years of execution of this License, respectively.*

HIH proposes to amend Section 10.17 by increasing both time periods by 12 months, and reducing the sawmill and kiln capacity target from 5,000,000 to 3,000,000 board feet per year.

Staff supports changing the time milestone for the 1,000,000 board foot capacity mill from sixteen (16) to twenty four (24) months rather than the twenty eight (28) month mark as requested, as an extension to twenty four (24) months would establish consistency between Section 3, Table 2, and Section 10.17 should Table 2 be amended as discussed above.

Staff does not support the HIH request to increase the time milestone for the 5,000,000 board foot capacity mill from four (4) to five (5) years, as the License is set to expire at year five, and the milestone as currently written is consistent with Section 3, Table 2, Phase IV. HIH does have the option to request a five-year extension of this License at year four (4), and could address any other needed License amendments at that time should the option be pursued.

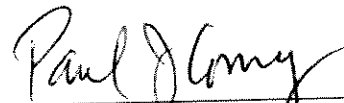
Staff does not support the proposed reduction in the sawmill and kiln capacity target stated in Section 10.17 from 5,000,000 to 3,000,000 board feet per year. In its letter to the Division, HIH appears to be concerned that Section 10.17 compels HIH to produce 5,000,000 board feet per year of milled and dried lumber by year four (4). However, Staff interprets Section 10.17 to imply that the facility must simply be "capable" of producing the stated board foot values, and as such no amendment would be needed.

RECOMMENDATIONS

That the Board of Land and Natural Resources:


1. Amends Timber Land License No. 2007-H-01 held by Hawaii Island Hardwoods, LLC whereby Section 3, Table 2 Time Periods for Phases II and III are amended to 6-24 months, and 9-24 months, respectively.
2. Amends Timber Land License No. 2007-H-01 held by Hawaii Island Hardwoods, LLC whereby Section 10.17 time milestone for the 1,000,000 board foot capacity mill is amended from sixteen (16) to twenty four (24) months.
3. Authorizes the Department to execute Amendment No. 1 to Timber Land License No. 2007-H-01 held by Hawaii Island Hardwoods, LLC as detailed above, subject to review and approval by the Department of the Attorney General.

Respectfully submitted,



PAUL J. CONRY, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

Attachments